

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
DOCKET NO. 5:09CR41-RLV-DCK-1**

UNITED STATES OF AMERICA

v.

ELBERT MAURICE MAYFIELD

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ORDER

This cause is before the Court on Defendant's Motion for Appropriate Relief filed April 21, 2011 (Doc. 28), citing Kimbrough, Spears and Rita, and for a downward variance (18 U.S.C. § 3582(a)). He also objects to his career offender status, and references the adverse crack versus powder cocaine ratio which he claims affected his sentence.

Defendant further moves (Doc. 32, filed October 20, 2011, and Doc. 31, filed on August 23, 2011) for a reduced sentence from 168 months to 108 months based on 18 U.S.C. § 3582(c), citing retroactive Amendment 742 under U.S.S.G. § 1B1.10(c).

Defendant further moves (Doc. 35, filed February 8, 2012) for resentencing under the Simmons and Carachuri-Rosendo cases, and Haines v. Kerner 404 US 519, attacking his career offender status.

Lastly, attorney Michael E. Archenbronn moves (Doc. 40, filed September 10, 2012) the Court to appoint counsel for Defendant concerning Simmons and Dorsey relief.

It appears, however, that counsel was appointed for Defendant on July 2, 2013 in a post-conviction relief action, 5:12cv95 in this Court, to explore Simmons relief via 28 U.S.C. § 2255.

The action was heard and relief denied (Doc. 42, filed December 3, 2013), and appeal was dismissed by the Fourth Circuit Court of Appeals (Doc. 45, filed April 30, 2014). Also, relief under U.S.S.G. Amendment 782 was denied. (Doc. 51, filed September 25, 2015). Furthermore, permission was denied for a second or subsequent appeal under Section 2255 and the Johnson case. (Doc. 52, filed July 25, 2016). Consequently, all of Defendant's pending motions and letter motions are hereby DENIED and DISMISSED as moot.

Signed: May 29, 2018

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees
United States District Judge

